IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
And
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No. 21418 of 2006

Between :

M/s. Sri Mathaji Haranath Chillies Trading Co., .. Petitioner

And

The Commercial Tax Officer, Gudivada, Krishna District and two others .. Respondents

Dated : 16th October, 2006

ORDER : (per JC,J)

Writ Petition is filed with the prayer as follows :

"For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd respondent in CCT's Ref. No. LV(2)/1193/2006 rejecting the stay application filed by petitioner through impugned order dated 31.8.2006 as illegal, arbitrary, unjustified and consequently restrain the 1st respondent from taking any coercive steps for recovery of the disputed demand of Rs.,32,57,781/- for the assessment year 1995-96 under the APGST Act pending disposal of the appeal before the Sales Tax Appellate Tribunal and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner is a partnership concern carrying on business in purchase and sale of dry chillies and cotton, a registered dealer under the APGST Act, 1957 and also under Central Sales Tax Act,

1956 and an assessee on the rolls of the 1st respondent. For the assessment year 1995-96 under the CST Act, the petitioner's assessment came to be determined by an order dated 30.3.1999.

Aggrieved by the assessment order, the petitioner carried the matter in appeal before the 2nd respondent. By an order dated 22.12.1999, the 2nd respondent set aside the said assessment order and remitted back the matter to the 1st respondent. In the light of the appellate order, on such remand, the 1st respondent again passed an order dated 13.12.2002. The petitioner once again challenged the same before the 2nd respondent. Once again the assessment order was set aside by the 2nd respondent by his proceedings dated 10.10.2003 and the matter was once again remitted back to the 1st respondent. By proceedings dated 28.4.2004, the 1st respondent once again passed an assessment order. The petitioner once again preferred an appeal before the 2nd respondent unsuccessfully and therefore he carried the matter before the Sales Tax Appellate Tribunal. Along with the appeal, he filed an application seeking stay of the recovery of the disputed tax. Such application was rejected by the 3rd respondent by his proceedings dated 31.8.2006. Hence the present writ petition.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the matter can be disposed of at this stage directing the respondents not to take any coercive steps for the recovery of the tax pending the final adjudication of the appeal filed by the petitioner on the file of the STAT on condition the petitioner deposits 50% of the tax demanded within a period of four weeks from today. While computing the said amount of 50% mentioned above, the amount of tax if any paid already for the

relevant assessment year shall be given credit to while computing the above mentioned amount of 50%.

Writ Petition is accordingly disposed of.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

16th October, 2006.

Knk